

**ORDINANCE NO. 2008-967-O**

**AN ORDINANCE REPEALING WASHINGTON COUNTY ORDINANCES NO. 2007-939-O (PINE VALLEY AREA OFF-HIGHWAY VEHICLE USE) AND NO. 2007-948-O (DIAMOND VALLEY AREA OFF-HIGHWAY VEHICLE USE) AND DESIGNATING ALL COUNTY ROADS IN WASHINGTON COUNTY OPEN FOR GENERAL OFF-HIGHWAY VEHICLE USE, AND TO REGULATE THE USE OF OFF-HIGHWAY VEHICLES, PURSUANT TO TITLE 41, CHAPTER 22, UTAH CODE ANNOTATED (1953, AS AMENDED)**

WHEREAS, Washington County (“County”) has previously adopted Ordinance No. 2007-939-O, which designated certain streets in the Pine Valley area open for off-highway vehicle use; and

WHEREAS, the County has previously adopted Ordinance No. 2007-948-O, which designated certain streets in the Diamond Valley area open for off-highway vehicle use; and

WHEREAS, Utah Code Annotated, § 41-22-10.5 (1953, as amended) permits a county to adopt an ordinance designating certain streets and highways under its respective jurisdiction as open for street legal all-terrain vehicle use.

NOW, THEREFORE, BE IT ORDAINED by the County Legislative Body of Washington County that Ordinance Nos. 2007-939-O and 2007-948-O are hereby repealed.

The County Legislative Body of the County of Washington ordains as follows:

1. Statutory Authority
2. Purpose of Provisions
3. Findings
4. Ordinance Designating County Roads As All-Terrain Vehicle Routes
5. Effective Date

1. Statutory Authority.

The statutory authority for enacting this ordinance is Utah Code Annotated §§ 17-53-208 and 17-53-223, and 41-22-1 *et seq.* (1953, as amended).

2. Purpose of Provisions.

The purpose of this ordinance is to designate county roads in Washington County as open for general off-highway vehicle use and to regulate the use of off-highway vehicles, pursuant to Title 41, Chapter 22, Utah Code Annotated (1953, as amended).

3. Findings.

A. Utah Code currently allows a county to adopt ordinances designating certain streets and highways under its jurisdiction as open for street legal all-terrain vehicle use (Utah Code Annotated, § 41-22-10.5).

B. Because of the increased use of off-highway vehicles in Washington County, there needs to be routes designated as open for street legal all-terrain vehicle use.

C. It is in the interest of the public and the citizens of Washington County to designate routes as open for general off-highway vehicle use.

D. To promote safe use of off-highway vehicles in Washington County, it is in the best interest of the public and citizens of Washington County that use of off-highway vehicles be regulated pursuant to the provisions of Title 41 Chapter 22, Utah Code Annotated (1953, as amended).

4. Washington County Code.

The Washington County Code is amended to read as follows:

OFF-HIGHWAY VEHICLES:

A. Definitions: For purposes of this section, the following terms shall have the following meanings:

ALL-TERRAIN TYPE I VEHICLE: Any motor vehicle 50 inches or less in width, having an unladen dry weight of 800 pounds or less, traveling on three (3) or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain. (U.C.A. § 41-22-2 (2) (1953, as amended).

ALL-TERRAIN TYPE II VEHICLE: Any other motor vehicle, not defined herein as an "All Terrain Type I Vehicle", designed for or capable of travel over unimproved terrain. This term does not include golf carts, any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102 of the Utah Code.

MOTORCYCLE: Every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

SNOWMOBILE: Any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

**OFF-HIGHWAY VEHICLE:** All all-terrain type I and type II vehicles, but shall not include snowmobiles and motorcycles.

- B. **Registration Of Vehicle:** Unless exempted under Section 41-22-9 of the Utah Code, a person may not operate or transport and an owner may not give another person permission to operate or transport, any off-highway vehicle on any public land, trail street, or highway within the unincorporated area of Washington County unless the off highway vehicle has been registered in accordance with the requirements of Title 41, Chapter 22 of the Utah Code for the current year.
- C. **Equipment Requirements:** All off-highway vehicles, as defined herein, shall be equipped with:
  - 1. Brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions; and
  - 2. Headlights and taillights when operated between sunset and sunrise; and
  - 3. A noise control device.
  - 4. An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.
- D. **Protective Headgear:**
  - 1. A person under the age of eighteen (18) may not operate or ride on an all-terrain type I vehicle or motorcycle on any public land, trail, street, or highway within the unincorporated area of Washington County unless the person is wearing properly fitted and fastened, United States department of transportation safety rated protective headgear designed for motorized vehicle use.
  - 2. The owner of an off-highway vehicle or any other person may not give permission to a person who is under the age of eighteen (18) years to operate or ride on an off-highway vehicle in violation of this Section D.
  - 3. An operator and passengers of off-highway implements of husbandry operated in the manner prescribed by Utah Code Annotated, Section 41-22-5.5 (3) and (4) (1953, as amended) are exempt from the requirements of this section.
  - 4. Any person convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$50 per offense.

E. Restrictions On Privately Owned Lands:

1. No person shall operate or accompany a person operating an off-highway vehicle upon privately owned land of any other person, firm or corporation without permission from the owner or person in charge.
2. It shall be unlawful for any person operating or accompanying a person operating an off-highway vehicle to refuse to immediately leave private land upon request of the owner or person in charge of such land.
3. Subsections E1 and E2 of this section shall not apply to prescriptive easements on privately owned land.
4. No person operating or accompanying a person operating an off-highway vehicle shall obstruct any entrance or exit to private property without the owner's permission.
5. It shall be unlawful for any person to tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of operating an off-highway vehicle on privately owned land, or to tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to any such fence or enclosure.

F. Prohibited Uses: No person may operate an off-highway vehicle in connection with acts of vandalism, harassment of wildlife or domestic animals, burglaries or other crimes, or damage to the environment which includes excessive pollution of air, water, or land, abuse of the watershed, impairment of plant or animal life, or excessive mechanical noise.

G. Supervision, Safety Certificate Or Driver's License Required:

1. A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street or highway within the unincorporated area of Washington County unless the person:
  - a. Is under the direct supervision of a certified off-highway vehicle safety instructor during a scheduled safety course,
  - b. (i) Has in his possession the appropriate safety certificate issued by the State of Utah, and  
(ii) if under 18 years of age, is under the direct supervision of a person who is at least 18 years of age if operating on a public highway that is:

- (A) open to motor vehicles; and
    - (B) not exclusively reserved for off-highway vehicle use; or
  - d. Has in his immediate possession a valid motor vehicle operator's license.
  - e. "Direct supervision" means oversight at a distance:
    - (i) of no more than 300 feet; and
    - (ii) within which:
      - (A) visual contact is maintained; and
      - (B) advice and assistance can be given and received.
- 2.
  - a. Any person convicted of a violation of this section is guilty of an infraction and shall be fined not more than \$100 per offense.
  - b. It is a defense to a charge under this section, if the person charged produces in court a license or an appropriate safety certificate that was:
    - (i) valid at the time of the citation or arrest; and
    - (ii) issued to the person operating the off-highway vehicle.
- 3. The requirements of this section do not apply to an operator of an off-highway implement of husbandry.

H. Operation By Persons Under Eight Years of Age Prohibited:

- 1. Persons Under Age Eight: Except as provided in Section 41-22-29 (3) of the Utah Code, a person under the age of eight (8) may not operate and an owner may not give another person who is under the age of eight (8), permission to operate an off-highway vehicle on any public land, trail, street, or highway within the unincorporated area of Washington county.
- 2. Any person convicted of a violation of Subsection H1 is guilty of an infraction and shall be fined not more than \$50 per offense.

I. Designation Of Roads Open To Off-Highway Vehicle Use:

1. Within the unincorporated area of Washington County, all County roads, except roads along, across, or within the boundaries of an interstate freeway or limited access highway, are designated as open for general off-highway vehicle use. This designation does not include any road within and under the jurisdiction of the U.S. Forest Service, nor does it include roads on privately-owned property, unless those roads are part of the County road system.
2. Subparagraph 1 above does not apply to off-highway implements of husbandry used in accordance with U.C.A., § 41-22-5.5 (1953, as amended).

J. Operation Of Vehicles On Highways:

No person may operate an off-highway vehicle upon any street or highway not designated as open to off-highway vehicle use, except:

1. When crossing a street or highway and the operator comes to a complete stop before crossing, proceeds only after yielding the right of way to oncoming traffic, and crosses at a right angle;
2. When loading or unloading an off-highway vehicle from a vehicle or trailer, which shall be done with due regard for safety, and at the nearest practical point of operation;
3. When an emergency exists, during any period of time and at those locations when the operation of conventional motor vehicles is impractical or when the operation is directed by a peace officer or other public authority.

K. Speed/Regulations: Any person operating an off-highway vehicle is subject to the provisions of Title 41, Chapter 6a of the Utah Code, unless specifically excluded.

L. Penalties For Violation: Unless otherwise specified in this ordinance, any violation of the terms of this ordinance shall be punishable as a Class C misdemeanor.

5. Effective Date.

This ordinance takes effect fifteen (15) days after its passage. Following its passage but prior to the effective date, a copy of the Ordinance shall be deposited with the County Clerk and a short summary of the ordinance shall be published in a newspaper of general circulation within the County as required by law.

APPROVED AND ADOPTED this 18th day of November, 2008.

WASHINGTON COUNTY

/s/ Alan D. Gardner, Acting Chair

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JAMES J. EARDLEY, Chair  
Washington County Commission

ATTEST:

/s/ Calvin R. Robison

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Calvin R. Robison  
Washington County Clerk-Auditor

Commissioner Eardley voted Absent  
Commissioner Gardner voted Aye  
Commissioner Drake voted Aye

Notice of Adoption of Washington County Ordinance No. 2008-967-O

On November 18, 2008, the County Legislative Body of Washington County adopted Ordinance Number 2008-967-O, "An Ordinance Repealing Washington County Ordinances No. 2007-939-O (Pine Valley Area Off-Highway Vehicle Use) And No. 2007-948-O (Diamond Valley Area Off-Highway Vehicle Use) And Designating All County Roads In Washington County Open For General Off-Highway Vehicle Use, And To Regulate The Use Of Off-Highway Vehicles, Pursuant To Title 41, Chapter 22, Utah Code Annotated (1953, As Amended)

The purpose of this ordinance is to designate county roads in Washington County as open for general off-highway vehicle use and to regulate the use of off-highway vehicles, pursuant to Title 41, Chapter 22, Utah Code Annotated (1953, as amended).

A complete copy of the Ordinance is available at the County Commission Office.

Commissioner James J. Eardley voted Absent

Commissioner Alan D. Gardner voted Aye.

Commissioner Dennis Drake voted Aye.

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